

**DETAILED ACTION**

***Response to Amendment***

*Claims 66, 71, 78, 83, 88 and 95 have been amended.*

*Claims 1-65 and 80-82 have been cancelled.*

*Claims 66-79 and 83-96 are pending.*

*Claims 66-79 and 83-96 are allowed.*

***Response to Arguments***

**I.** Applicant's arguments (see Remarks pages 3-6) filed 11/30/2006, with respect to independent claims 63 and 80 been fully considered and are persuasive. Therefore the 35 USC 103(a) rejections of the pending claims have been withdrawn.

***Examiner's Amendment***

**II.** An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

**III.** Authorization for this Examiner's amendment was given in a telephone interview with Atty. Donald Muirhead on March 29, 2007. Please make the following changes:

**a. Regarding Claim 78:**

- In line 7: between “other” and “storage”, insert—*secondary*; and
- In line 8: delete “synchronizing”, and replace with—*sending*.

**b. Regarding Claim 95:**

Art Unit: 2141

- In line 7: between “other” and “storage”, insert—*secondary*; and
- In line 10: delete “synchronizing”, and replace with—*sending*.

***Reasons for Allowance***

(The following is an examiner's statement of reasons for allowance)

IV. The prior art or record fails to teach neither singly nor in combination, the claimed limitations of “sending data from a first storage device to at least one other secondary storage device, said data being sent in a plurality of data packets, each of said plurality of packets being associated with a sequence number having a first predetermined value; upon determining that the data has been successfully stored on all of said at least one other secondary storage device, deleting journal entries in a sender corresponding to said data; upon determining a failure in connection with sending data between a first storage device and at least one other secondary storage device, deleting journal entries in each of said at least one other secondary storage device, and resending unsynchronized journal entries from the sender by sending a plurality of data packets all having a same sequence number lower than sequence numbers associated with other unsent packets and then sending any remaining data packets have a next higher sequence number, wherein data packets having the same sequence number are sent in an order that is independent of an order in which the data packets were created and wherein data packets having the same sequence number represent different data that is independently generated from a plurality of different sources” as stated in independent Claims 78 and 95 (see Applicant’s Specification, pages 19-20 and 23-27).

V. Although prior art *Gawlick et al* (US 4,507,751), *Kern et al* (US 5,734,818), *Euler et al* (US 6,052,696) and *DeLorme et al* (US 4,819,156), disclose methods and

Art Unit: 2141

systems for implementing journaling and data recovery for storage systems; the prior art fails to explicitly teach the claimed limitations of resending unsynchronized journal entries from the sender by sending packets all having a same sequence number, wherein the packets with the same sequence number are sent in an order independent of their creation and wherein the packets with the same sequence number represent different data independently generated from different source. Furthermore, the prior art fails to teach or suggest “wherein in response to the sequence number in the sender becoming equal to a second predetermined value different from the first predetermined value, acknowledging receipt of the blocks of data corresponding to the packets of data that are assigned the first predetermined value as the sequence number and sending the packets of data that are assigned the first predetermined value as the sequence number to said at least one other secondary storage device” as cited in Claims 78 and 95.

**VI.** As discussed in Applicant's Remarks filed 11/30/2006, these limitations, in conjunction with other limitations in the independent and dependent claims, are not specifically disclosed or remotely suggested in the prior art of record. A review of Claims 66-79 and 83-96 in view of the Examiner's remarks above, indicates that Claims 66-79 and 83-96 are allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

### **Conclusion**

**VII.** Any inquiry concerning this communication or earlier communications from the

Art Unit: 2141

examiner should be directed to Kristie Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday-Friday 8:30-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

***Kristie Shingles***  
***Examiner***

***kds***